

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SHARICE GREEN, individually and on
behalf of her minor child T.C.,

Plaintiffs,

MEMORANDUM AND ORDER

- against -

07-CV-1790 (ENV) (CLP)

JOHN B. MATTINGLY, individually and
as Commissioner; BENJAMIN WILLIAMS,
individually and as supervisor, RUSSELL
BANKS, individually and as manager,
DANIELLE SALADINO, individually and
as caseworker, and CITY OF NEW YORK,

Defendants.

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VITALIANO, D.J.

Defendants have moved to dismiss the second amended complaint. On February 25, 2010, one day before her opposition papers were due to be served, plaintiff requested leave to file a third amended complaint. (Docket #74.) For purposes of judicial efficiency, the Court instructed plaintiff to attach the proposed pleading as an exhibit to her opposition papers and permitted defendants to respond to the amendment request in their reply papers. (Docket #75.) The motion was submitted on March 19, 2010.

The Federal Rules of Civil Procedure favor the liberal grant of leave to amend a pleading. At its core, plaintiff's request to amend is pegged to the need to satisfy the heightened pleading standard announced in Ashcroft v. Iqbal, 129 S. Ct. 1937 (2009). Plaintiff claims in substantive part that the third amended complaint pleads facts satisfying Iqbal that were left out of the pre-Iqbal second amended complaint.

Balancing the arguments advanced by the parties and in the Court's continuing effort to promote the interest of litigation economy, the Court determines that the more prudent course is to grant plaintiff leave now to file a third amended complaint and to deny the motion of defendants to dismiss with leave to renew.

In line with this determination, the Court directs plaintiff to file the third amended complaint, in the form annexed to her motion papers (Docket # 80, Ex. 1), on or before April 9, 2010. Should defendants desire to move against the third amended complaint, defendants shall serve their motion to dismiss on or before April 23, 2010. Plaintiff shall serve any opposition papers on or before May 7, 2010. Defendants shall serve their reply papers and file all motion papers on or before May 14, 2010. Courtesy copies shall be delivered to chambers in accordance with the rules for this part. The Court will advise the parties if oral argument is required.

SO ORDERED.

DATED: Brooklyn, New York
 April 6, 2010

s/ENV

ERIC N. VITALIANO
United States District Judge